

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SANDI RUSH,

Plaintiff,

vs.

ISLANDS RESTAURANTS, LP, etc.,
et al.,

Defendants.

CASE NO. 11cv1312-LAB (POR)

ORDER DENYING MOTIONS FOR SUMMARY JUDGMENT; AND

**ORDER VACATING FINAL
PRETRIAL CONFERENCE; AND**

ORDER SETTING TRIAL DATE

[Docket Nos. 24, 25]

While the parties' cross-motions for summary judgment (Docket nos. 24, 25) were pending, Defendant Islands Restaurants, LP filed briefing suggesting that claims pertaining to the restaurant's parking lot had become moot because of renovation. After reviewing the briefing, the Court dismissed some claims as moot, set an evidentiary hearing, ordered the parties to submit supplemental briefing, and on September 25, 2012 held a hearing. At the hearing, Plaintiff's counsel conceded all claims were moot except claims arising from alleged irregularities in the parking lot. Because of drainage issues, the parking lot had been resurfaced the day before the hearing, and Plaintiff's counsel said he had not had the opportunity to examine it.

Plaintiff has now lodged and filed exhibits representing what he believes is evidence showing the disabled parking spaces at the restaurant are sloped to a degree that violates the ADA, and which would inconvenience him if he were to park there.

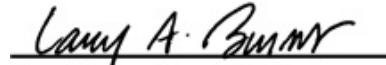
1 All claims for injunctive relief, except claims arising from the slope of the disabled
2 parking spaces are concededly moot, and are therefore **DISMISSED WITHOUT**
3 **PREJUDICE BUT WITHOUT LEAVE TO AMEND.**

4 Because the cross-motions for summary judgment addressed the condition of the
5 parking lot before it was resurfaced, as well as other now-dismissed claims, they are
6 **DENIED AS MOOT.**

7 The parties are directed to comply with all previously-set disclosure dates and to
8 submit a proposed final pretrial order as directed in the Case Management Order (Docket
9 no. 9, ¶ 13). Because the September 25 hearing served the function of a final pretrial
10 conference, the pretrial conference currently on calendar for November 19, 2012 is
11 **VACATED**. Trial will commence at 10:00 a.m. on Thursday, December 13, 2012, and the
12 proposed pretrial order shall include that as the trial date. The trial will be bifurcated, and
13 ADA claims tried first. At the conclusion of the first phase of trial, a second phase will be set,
14 as necessary.

15 **IT IS SO ORDERED.**

16 DATED: October 9, 2012

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18 **HONORABLE LARRY ALAN BURNS**
United States District Judge

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